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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,605	07/03/2003	David DeRogatis	RAILWA 3.0-001	7300

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EXAMINER


GARCIA, ERNESTO

ART UNIT PAPER NUMBER

3679

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 <b>Interview Summary</b>	<b>Application No.</b> 10/613,605	<b>Applicant(s)</b> DEROGATIS ET AL.	
	<b>Examiner</b> Ernesto Garcia	<b>Art Unit</b> 3679	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Ernesto Garcia. (3) \_\_\_\_\_  
 (2) Diana Rea. (4) \_\_\_\_\_

Date of Interview: 23 February 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference  
 c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☒ Yes e) ☐ No.  
 If Yes, brief description: Proposed amendment.

Claim(s) discussed: 1.

Identification of prior art discussed: Rapata, US3,539,234.

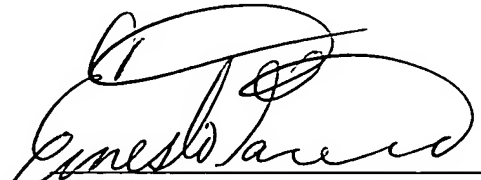
Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant wanted to get an overview of the amendment made to claim 1. The examiner review the new limitation to claim 1 and concluded that more structural limitations about the fastener or the mating surface have to be made to overcome Rapata as "the manner that allows for the picket to be connected to the second article at a substantially fixed angle" is merely expressing how the mating surface is to be adapted with the picket and the second article, which is given limited patentable weight .

PTOL-413A (09-04)  
 Approved for use through 07/31/2008. OMB 0651-0031  
 U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

### Applicant Initiated Interview Request Form

Application No.: 10/613,605 First Named Applicant: De Rogatis, David  
 Examiner: Garcia, Ernesto Art Unit: 3679 Status of Application: First Office Action  
12/17/04

#### Tentative Participants:

(1) Examiner Garcia (2) Diana Rea  
 (3) Kir-Wah Tong (4) \_\_\_\_\_

Proposed Date of Interview: Feb. 23, 2005 Proposed Time: 3:00 (AM/PM) (PM)

#### Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☒ YES ☐ NO

If yes, provide brief description: Proposed Claim amendment (attached)

### Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>\$102 Rej.</u>	<u>1, 3, 7, 8, 10, 11, 13</u>	<u>US. 3,539,234</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Continuation Sheet Attached

#### Brief Description of Arguments to be Presented:

Applicants would like to propose a claim amendment that they believe distinguishes their claims over Rapata (US 3,539,234).  
Proposed amendment attached.

An interview was conducted on the above-identified application on 2/23/05.

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Diana Rea  
 Applicant/Applicant's Representative Signature

[Signature]  
 Examiner/SPE Signature

Diana Rea  
 Typed/Printed Name of Applicant or Representative

54,938  
 Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Proposed claim amendment

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1. (Currently Amended) A ~~plug~~ fastener adapted to connect a picket to a second article such as a rail, the picket having an opening on at least one end, comprising:

a first engaging surface having a ~~maximum diameter~~ width adapted to engage an interior surface of the opening in the picket; and

a mating surface adapted to mate with the second article in a manner that allows for said picket to be connected to said second article at a substantially fixed angle.

2. (Cancelled)

3. (Currently Amended) The ~~plug~~ fastener of claim 2 wherein said fastener is adapted to affix the picket at at least one of an acute angle and a right angle to said second article.

4-5. (Cancelled)

6. (Withdrawn) The plug fastener of claim 1 wherein said first engaging surface has cross-sectional shape selected from the group consisting of rectangular, pentagonal, hexagonal, octagonal and other regular polygons having at least four sides.

7. (Currently Amended) The ~~plug~~ fastener of claim 1 wherein said first engaging surface includes a plurality of ridges adapted to frictionally engage the opening in the picket.

8. (Currently Amended) The ~~plug~~ fastener of claim 7 wherein a shape of said first engaging surface ~~has shape selected from the group consisting of~~ is cylindrical, ellipsoidal, conical, elliptic conical frustum, pyramidal frustum, ~~and or~~ ball.

Proposed claim amendment

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9. (Cancelled)

10. (Currently Amended) The ~~plug~~ fastener of claim 1 wherein said mating surface is adapted to engage an interior surface of an opening in the second article.

11. (Currently Amended) The ~~plug~~ fastener of claim 10 wherein said mating surface includes a plurality of ridges adapted to frictionally engage the opening in the second article.

12. (Withdrawn) The plug fastener of claim 10 wherein said mating surface includes a plurality of threads adapted to engage the opening in the second article.

13. (Currently Amended) The ~~plug~~ fastener of claim 10 wherein a shape of said mating surface ~~has a shape selected from the group consisting of~~ is cylindrical, ellipsoidal, conical, elliptic conical frustum, pyramidal frustum, ~~and or~~ ball.

14. (Withdrawn) The plug fastener of claim 8 wherein said mating surface is flat, whereby said fastener is adapted to be affixed to a flat surface of said second article.

15. (Withdrawn) The plug fastener of claim 14 further comprising affixing means including at least one selected from the group consisting of bolthead, aperture having a regular polygonal cross-section, protrusion having regular polygonal cross-section, and countersink.

16. (Withdrawn) The plug fastener of claim 14 wherein the fastener is adapted to be hidden from view after the picket is fastened to the second article therewith.

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17. (Withdrawn) A plug fastener adapted to engage a longitudinally oriented opening of a picket for attaching the picket at a right angle to a second article such as a rail, said plug fastener comprising:

a cylindrical member provided with a first engaging surface for engaging an interior surface of a first one of the picket and the second article; and

a second member connected to the cylindrical member at an opposing end, the second member provided with a second engaging surface for engaging an interior surface of a second one of the picket and the second article,

such that said plug fastener is adapted to be hidden from view after the picket is fastened to the second article therewith.

18. (Withdrawn) A method of affixing a picket or a plurality of pickets at at least one of a right angle and an acute angle to a first rail and to a second rail to form a railing, comprising:

a) engaging an interior surface of a longitudinally oriented opening of a first end of a picket with a first plug fastener having a first engaging surface;

b) affixing a mating surface of the first plug fastener to a corresponding surface of a first rail;

c) engaging an interior surface of a longitudinally oriented opening of a second end of the picket with a second plug fastener having a first engaging surface; and

d) affixing a mating surface of the second fastener to a corresponding surface of a second rail,

such that the picket is affixed to the first and second rails by the first and second fasteners and the first and second fasteners are thereafter hidden from view.

19-20. (Cancelled)

21. (Withdrawn) The method of claim 18 wherein said first engaging surface



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has shape selected from cylindrical, ellipsoidal, conical, elliptic conical frustum, pyramidal frustum, and ball and other shapes having cross-sections of rectangular, pentagonal, hexagonal, octagonal and other regular polygons having at least four sides.

22. (Withdrawn) The method of claim 21 wherein the first engaging surface includes a plurality of ridges adapted to frictionally engage the longitudinal opening in the picket.

23. (Withdrawn) The method of claim 22 wherein the mating surface is flat such that said plug fastener mates with a flat surface of said first and second rails.

24. (Withdrawn) A method of affixing a plurality of pickets at an angle to a first rail and to a second rail to form a railing, comprising:

- a) engaging an interior surface of a longitudinally oriented opening of a first end of a picket with a first plug fastener having a first engaging surface;

- b) affixing a mating surface of the first plug fastener to a corresponding surface of a first rail;

- c) engaging an interior surface of a longitudinally oriented opening of a second end of the picket with a second plug fastener having a first engaging surface;

- d) affixing a mating surface of the second plug fastener to a corresponding surface of a second rail; and

- e) performing steps a) through d) for each of the plurality of pickets, such that the plurality of pickets are affixed to the first and second rails by a plurality of each of the first and second plug fasteners and the first and second plug fasteners are thereafter hidden from view.

25. (Withdrawn) A railing or fences including a plurality of pickets affixed at an angle on a first end to a first rail and on a second end to a second rail, each of

Proposed claim amendment

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the plurality of pickets being affixed to the first and the second rails by a method comprising:

- a) engaging an interior surface of a longitudinally oriented opening of a first end of a picket with a first plug fastener having a first engaging surface;
- b) affixing a mating surface of the first plug fastener to a corresponding surface of a first rail;
- c) engaging an interior surface of a longitudinally oriented opening of a second end of the picket with a second plug fastener having a first engaging surface; and
- d) affixing a mating surface of the second plug fastener to a corresponding surface of a second rail.

26. (Withdrawn) The method of claim 18 wherein said steps are performed in the order a), c), b) and then d).

27. (Withdrawn) The method of claim 18 wherein said steps are performed in the order b), d), a) and then c).

28. (Withdrawn) The method of claim 18 further comprising forming an opening in said first and second rails, wherein the mating surfaces of the first and second plug fasteners are affixed by engaging with interior surfaces within the openings in the first and second rails.

29. (Withdrawn) The plug fastener of claim 1 wherein said mating surface is a flat surface that is adapted to lie flat on a flat surface of a second article.

30. The plug fastener of claim 29 further comprising an at least partially arcuate body on which said first engaging surface is disposed.

31. (Withdrawn) The plug fastener of claim 30 wherein said body comprises a generally barrel shape.

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32. (Withdrawn) The plug fastener of claim 29 further comprising a longitudinal opening from a top end of said plug fastener to a bottom end of said plug fastener, said longitudinal opening adapted to receive an elongate fastener to connect said plug fastener to a second article.

33. (Withdrawn) The plug fastener of claim 29 further comprising a shaped body on which said first engaging surface is disposed, said shaped body permitting a snug fit into the interior surface of an opening in the picket.

34. (Withdrawn) The plug fastener of claim 29 wherein said first engaging surface includes a plurality of ridges to assist in creating a rigid fit within the opening in the picket.

35. (Withdrawn) Railing or fencing components, comprising:  
a) a top rail;  
b) a bottom rail;  
c) plug fasteners; and  
d) pickets, each having a top end and a bottom end, and recesses in each of said top and bottom ends, each said recess being sized to receive a plug fastener of said plug fasteners.

36. (Withdrawn) The railing components of claim 35 wherein said plug fasteners each have a picket end and a rail end, said picket end being sized to fit snugly into said recesses of said pickets.

37. (Withdrawn) The railing components of claim 36 wherein said rails have rail recesses and said rail ends of said plug fasteners are sized to fit into said rail recesses.

38. (Withdrawn) The railing components of claim 25 wherein said rails have

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flat surfaces, and said plug fasteners have at least one end having a flat surface adapted to contact said flat surfaces of said rails.

39. (Withdrawn) The railing components of claim 38 wherein said plug fastener is at least partially arcuate.

40. (Withdrawn) The railing components of claim 35 wherein said plug fastener has flat surfaces at two ends and an arcuate portion disposed between said two flat surfaces.

41. (Withdrawn) The railing components of claim 35 wherein said plug fastener includes two ends and a longitudinal opening therebetween, the opening being adapted to receive an elongate fastener to affix the plug fastener to said top rail or said bottom rail.

42. (Withdrawn) The railing components of claim 41 wherein the plug fastener has a flat surface at two ends and a shaped body therebetween, the shaped body permitting a snug fit into the recess in the end of the picket.

43. (Withdrawn) The railing components of claim 42 wherein the plug fastener includes on the shaped body an affixation assisting surface to assist in creating a rigid fit within the recess in the pickets.

44. (Withdrawn) The railing components of claim 43 wherein said affixation assisting surface includes a plurality of ridges.

45. (Withdrawn) The railing components of claim 42 wherein said shaped body is at least partially arcuate.

46. (Withdrawn) A railing or fencing kit, comprising:  
a) pickets, each having a top end and a bottom end, and recesses in

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each of said top and bottom ends, each said recess being sized to receive a plug fastener; and

b) plug fasteners adapted for connecting the pickets with rails that are disposed at either end of the pickets.

47. (Withdrawn) The railing kit of claim 46 wherein the plug fasteners are at least partially arcuate.

48. (Withdrawn) The railing kit of claim 47 wherein the plug fasteners include a longitudinal opening adapted to receive an elongate fastener.

49. (New) A rail system comprising

a first rail;

a second rail disposed in a substantially parallel, spaced-apart manner relative to said first rail;

a plurality of pickets affixed between said first rail and said second rail, each of said plurality of pickets having a first end and a second end, a first recess in said first end and a second recess in said second end; and

a plurality of fasteners adapted for affixing said plurality of pickets at substantially fixed angles relative to said first rail and said second rail, each of said plurality of fasteners comprising:

a first engaging surface having a maximum width adapted to engage one of said first recess or said second recess in a respective picket; and

a mating surface adapted to mate with one of said first rail or said second rail.